Mail Stop Amendment
Attorney Docket No. 82330

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of:

DANIEL et al. Confirmation No. 8140

Serial No. 09/980,114 Art Unit: 2682

Filed : March 4, 2002 Examiner: PERSINO, R.

For: METHOD FOR OPERATING A CELLULAR TELECOMMUNICATIONS NETWORK, AND METHOD FOR OPERATING A PERSONAL CELLULAR TELECOMMUNICATIONS DEVICE

DECLARATION UNDER RULE 1.132
OF
RONEN DANIEL, V.P. MARKETING

I, Ronen Daniel, declare and say as follows:

1. I am a citizen of Israel currently residing in Hapalmach St. Hod Hasharon, and I am over the age of 21.

2. I am currently a Senior Vice President of Sales of Celltick Technologies Ltd., of 32 Maskit Street, Herzliya, 46733, Israel, (CELLTICK), the assignee of this patent application.

3. I am also one of the inventors of the invention which is the subject of this patent application, I have read this patent application, and I am familiar with the claims currently being prosecuted.

4. I hold a BSc Degree in Mathematics and Computer science, which I received from Ben-Gurion University of Beer Sheva and an MBA Degree, which I received from Tel Aviv University in Israel.

5. A few years ago while sitting in a traffic jam, and getting bored after I had apparently received and made all the cell phone calls I was going to get and had to make, I looked at my mobile phone and asked myself a simple question, which was substantially, "Why isn't there anything on my cell phone screen that I could look at or interact with so that I would not be so bored?"

6. Since I had a technical background, I began to investigate the possibility of putting content on a mobile phone's display screen. I also enlisted a few friends who helped me search and study the telecommunications technology, the telecommunications protocols and the telecommunications industry.

7. We resigned from our jobs and founded CELLTICK. We set up an office in my home, put together a business plan and began looking for and found investors. I have been employed by CELLTICK ever since initially in the capacity of V.P. Marketing and recently as Senior V.P. Sales .

8. Today, CELLTICK is a software developer that has used the subject matter of the presently claimed invention to develop a solution that has resulted in the spread of mobile phone Value Added Services (VAS) to the general public non-intrusively directly on their idle screens. At the present time, the vast majority of the business of CELLTICK (probably over 90%) is the marketing, sale, licensing, installation and maintenance of commercial embodiments of the present invention. The Red Herring magazine, rated CELLTICK as one of the top 5 promising Israeli start-ups in the year 2000.

9. CELLTICK markets commercial embodiments of the present invention under the trademark "LiveScreen" directly to cellular operators similar to Cingular in the United States. Cellular operators are sometimes called mobile operators or carriers. While, the present invention is not limited to cellular systems, all of the current commercial embodiments are cellular systems.

10. CELLTICK also provides the technology and software according to the present invention to cellular operators and for the mobile telephones of their mobile subscribers or users. In one embodiment of the present invention, part of the system software is loaded onto SIM cards that reside in mobile handsets.

11. In my role as V. P. Sales, I am responsible for the advertising, marketing, selling, customer satisfaction, and obtaining statistics.

12. In my role as V. P. Sales, I am responsible for keeping the following records and documents in the ordinary course of business:

a. Sales reports and projections;
b. Advertising and promotional literature;
c. Performance evaluations of sales personnel; and
d. Evaluation reports of potential customers.

13. Cellular operators are always looking for new ways to increase their revenue. One way is the introduction of new value added services (VAS) which can be charged in addition to, and in some cases at higher rates than simple telephone calls. Cellular operators are also keen to promote their brand as the most important brand in their country by contributing to a society at large, and the present invention also has very important non-commercial value in the area of homeland security.

14. At the time the present application was filed, there were, and still are, three main issues that have created barriers to the uptake of VAS. Firstly, users lack an awareness of what VASs are available and how to obtain them easily. Secondly, the interfaces are cumbersome. Thirdly, there was the need for mobile users to initiate these services through repeated clicks on the phone which further deters them from exploring new services. Moreover, mobile users will generally accept invasion of their mobile phone only if it is unobtrusive.

15. Other disadvantages of prior art systems include:

a. They were an annoyance to the user;
b. The receipt of messages interrupted the normal telephone usage;
c. The messages took up valuable memory space; and
d. The messages had to be actively removed by the user.

16. The present invention provides a simple way to the complex question of how content can be delivered to mobile users as demonstrated at the interview with the Examiner using a demonstration mobile phone. A cellular operator obtains or creates media content such as messages asking if the mobile user would like to have the latest NBA scores, download a ringtone, watch a promo of a recent movie, etc. The cellular

operator transmits, such as by broadcast, messages as interactive messages to all the mobile telephones in one or more geographical locations (cells). The receipt of a message is silent. It is not announced; it is not acknowledged; and it is not replaced if there is a problem in its transmission or reception. Also, it is not normally repeated within a short period of time. The message appears on all or at least a part of a portion of the idle display screen of a mobile phone which displays, for example, the operator's logo/name, the signal strength, the battery power, and the time. Messages do not remain on a user's mobile telephone for a long duration and are automatically deleted irrespective of whether they have been displayed or not. This could occur for example during a long telephone conversation.

17. By broadcasting a stream of interactive messages to the mobile phones of their users, mobile operators can send interesting information and messages which if activated, will institute a series of interactive communications which generate revenue for them. The present invention has overcome the reluctance and the dissatisfaction that most mobile users previously experienced when they attempted to access value added services with their mobile telephones, such as too many pushbutton presses are required to get to desired information, and too complicated process.

18. CELLTICK's customers are operators which means that I am dealing directly with top level management and key personnel who are very knowledgeable and astute. CELLTICK does not use advertising of the type used with consumer products such as Pepsi but rather we exhibit at trade exhibitions attended by operators, advertise in industry magazines, and travel to operators for face-to-face meetings. Initially there was great reluctance on the part of cellular operators to install a commercial embodiment of the present invention on their network because they feared that it would not work and interfere with their network. What convinced the cellular operators was the ease of use of the interactive messages, the unobtrusive nature of their display and the automatic disposal or management of the messages.

19. The present invention has enjoyed considerable commercial success, as set forth in greater detail below. In my opinion, this commercial success is the result of those components identified in newly added Claim 56 by itself and also in combination with one or more of the claims dependent thereon. The commercial success of the present invention is certainly not due to any mass advertising, advertising giveaways, advertising incentives or even to my sales skills- In fact, I had no past experience in sales. The commercial success of the present invention is due to its acceptance and continued and growing use by mobile users.

20. Based on my experience from meetings with numerous cellular operators the following features all set forth in newly presented Claim 56 have contributed directly to the commercial success of the present invention:

a. it is silent;
b. it is easy to use;
c. the users do not have to deal with message storing or discarding, that is the user plays no function in message management;
d. the variety in the messages;
e. the messages are unobtrusively display, that is they automatically go away if there is an incoming call or if the user is working on the phone, such as making changes to the address listing;
f. the user does not have to do anything to receive or see the messages;
g. the receipt of a message is unannounced, so the user does not have to attend to it;
h. the user can look at the screen anytime he or she wants to or not look at it, when the user has time and a desire.

21. Also based on my experience from meetings with numerous cellular operators, the additional features all set forth in one or more newly presented claims dependent on Claim 56, have contributed to the commercial success of the present invention.

22. The present invention capitalizes on the most precious, previously unused real estate, namely, idle screens of mobile telephones. In certain installations, mobile telephones receive personalized, segmented, location-based and time-specific messages and display them instead of an idle screen. Messages change periodically at a rate depending on cellular telephone operator preference.

23. CELLTICK works closely with prominent partners and during the years, used to have worldwide distribution and support agreements with Motorola, Ericsson and Alcatel, and the major SIM vendors. Today, all major international manufacturers of SIM cards, including Gemplus, Axalto, Orga, G&D, MEE, X-pon card, Oberlhur Card Systems and others, have implemented the CELLTICK LiveScreen application on their SIM cards. Three of them, GemPlus, Axalto (ex SchlumbergerSema) and OCS, announced in the annual 3GSM congress in Cannes, France, February, 2003, that they have already manufactured SIM cards loaded with the "LiveScreen" cellular system for the cellular operator Hutch India. CELLTICK also has agreements with content providers such as Reuters and with leading enabling platform vendors, such as Logica-CMG.

24. The first customer of the commercial embodiment of the present invention was Hutchison India, the number two operator (in terms of revenues) in the burgeoning market of India. Hutchison India launched its service under its mark "Hutch Alive" on January 21, 2003. Hutchison India signed agreements with CELLTICK and seven of Hutchison's regional operators launched the service according to the present invention in Mumbai, Delhi, Kolkata, Chennai, Gujarat, Andhra Pradesh and Karnataka. The Hutch Alive™ service has since expanded to 6 other regional networks and is about to expand to 7 more by the end of 2005. As of January, 2003, about 2,500,000 Indian mobile telephone users have been enjoying the service. In an article in the March, 2004 issue of Card Technology at pp. 42, 43, it said that Hutchison has increased revenue from value-added services by 25%. This increase is primarily from CELLTICK's "LiveScreen" cellular system.

25. In a news release, Asim Ghosh, the Managing Director of Hutchison India, praised its embodiment of the present invention by stating:

> "The real strength of HutchAlive™ is the way it is delivered silently, simply, without disturbing the user or clogging his or her message box. This is permission marketing at its interactive best. This stems from our philosophy of simplifying user experience. This is another instance of Hutchison being the frontrunner in using technology to simplify and deliver value to its customers rather than thrusting technology on them. We are proud to be the first company in the world to deploy this application."

26. At the news conference announcing HutchAlive™, part of which was played for the Examiner at the interview, Asim Ghosh said essentially the same thing. I attended this news conference and was announced as being there. A reproduction of the news conference is contained on a CD included with my declaration.

27. Under the commercial embodiments of the present invention, mobile users can request that their operators deactivate their handsets in order not to display messages, and some of the more knowledgeable users can deactivate the service themselves. In 2003, according to India's Hutch Alive, the company had a 90% retention rate of its service.

28. Since that time, the following cellular operators have contracted for the "LiveScreen"system:

a. Xinjiang Unicom of China on March 6, 2003;

b. Dialog Sri Lanka on July 16, 2003;
c. Orange Israel;
d. Sichuan Unicom on February 12, 2004;
e. Vimpelcom Russia on September 6, 2004;
f. AIS Thailand on Dec 1, 2004; and
g. Globe Telecom, Philippines, June 2005

The "LiveScreen" cellular system is also installed under trial agreements in the following cellular operators' networks:

a. Telefonica Moviles, Spain on September 2004; and
b. DTAC, Thailand on September 2004

29. The typical selling price received varies depending upon the system sizing - number of mobile telephone users and other factors, and is a company trade secret. However, the amounts for the first systems varied from several hundreds of thousands of dollars to many millions of dollars. The aggregate revenues from selling LiveScreen by the end of 2005 are expected to be several tens of millions of dollars.

30. The present invention has also very important non-commercial value in the area of homeland security. A commercial embodiment of the present invention was obtained by Dialog (Sri Lanka) in February, 2004. Dialog is a subsidiary of the global Telokom Malaysia group that owns more than 10 cellular mobile operators worldwide and is Sri Lanka's flagship telecommunications company that has spearheaded the mobile industry in Sri Lanka since the late 1990's. It is the country's largest cellular network providing services to around a million and half customers, across all nine provinces of the island of Sri Lanka. Dialog used LiveScreen as a mass emergency alert system during the recent Tsunami crisis in Sri Lanka. Dialog used the system to broadcast to its users ongoing real-time updates on the situation along the coasts, to warn people from going to dangerous areas and to inform on hospital help-lines, the location of supplies distribution centers and collection points for donations. The system operated flawlessly, despite the huge load on the network which made other communication means, such as voice calls and SMS, highly unreliable. "Celltick's system addressed a lot of the issues which we faced in the aftermath of the Tsunami", says Thivanka Rangala, VP R&D and Finance in Dilaog. "It was valuable when we tried to alert customers and provide emergency messages to many subscribers in real time, while SMS was hopeless".

31. To summarize, advantages of the present invention as realized and recited by the customers of CELLTICK and which has led to its commercial success is due almost entirely to the features of the invention which have been claimed, include:

a. The displayed messages are silent and unobtrusive;

b. Messages of importance can be sent extremely fast. For example, during a recent SARS incident in Hong Kong, it took over 7 hours for Hong Kong telephone operators to tell their customers using SMS (Short Message Service) that Hong Kong would not be declared a SARS infected city, whereas according to the present invention, distributing such a message to would take less than a few minutes;

c. Use of the interactive message service has increased average revenue per user (ARPU), and thus the service provides an increased revenue for the operators;

d. It is a service which usually does not cost a cellular user anything unless the user requests additional information;

e. The service is actually used by a large percentage of the mobile telephone users and only a very small percentage have deactivated the service; and

f. The present invention easily permits the use of a wide variety of messages to be streamed on the mobile telephone.

32. Currently, there are already approximately 10 million mobile telephone users around the world, and rapidly growing – currently around one million new users every month, who watch the streaming message on their handsets regularly. Of these, it is estimated that about 20% 35% of the mobile telephone users respond to interactive messages generating about 4 – 7 transactions per month. This adoption and usage rate is unprecedented in mobile data services.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code.

Date: 9/29/2005 Signed:

Ronen Daniel